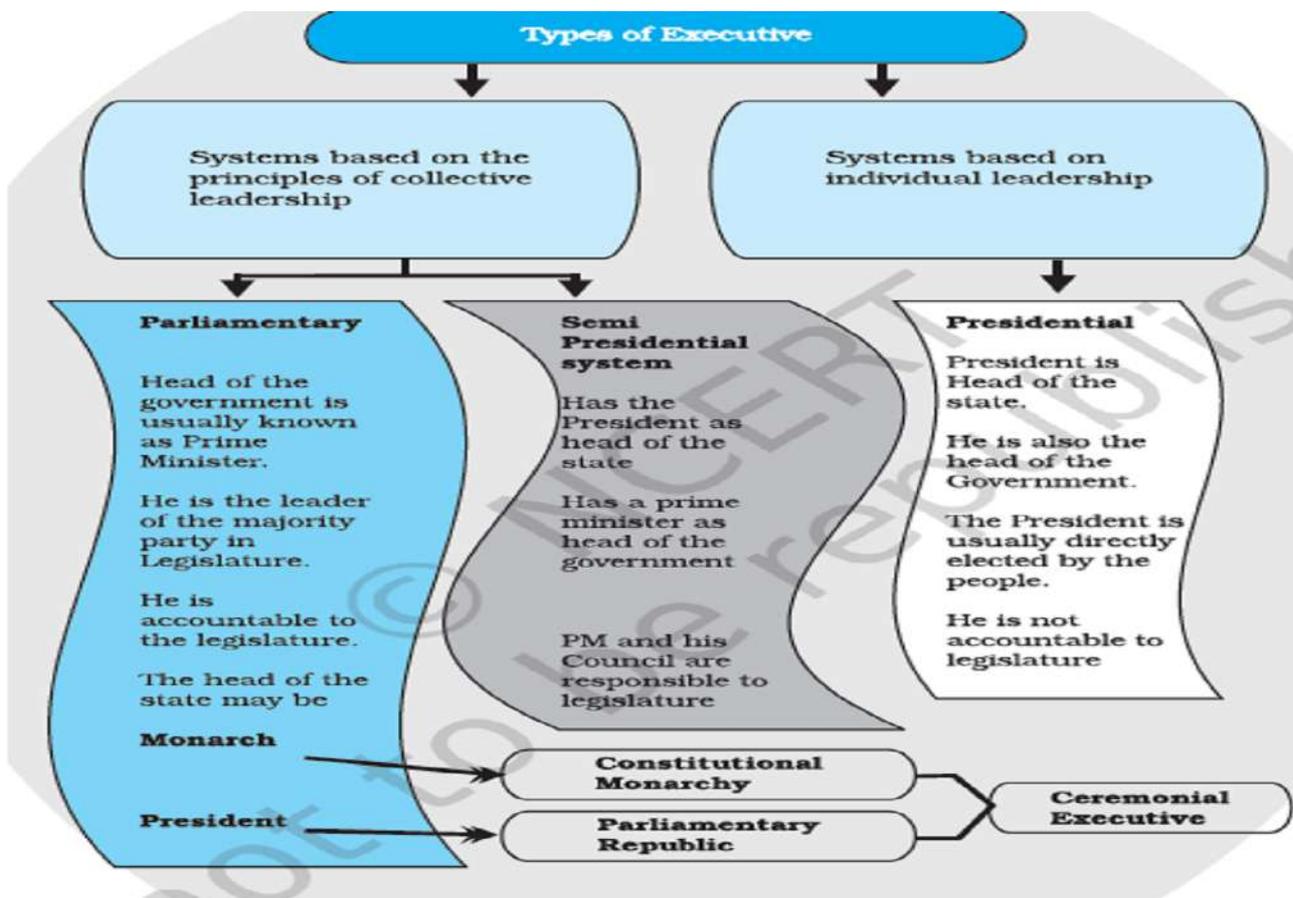


Part A: Indian Constitution at Work

Chapter-4. Executive

- Parliamentary Executive in India:
- The President,
- The Prime Minister
- The council of ministers
- Permanent executive: bureaucracy





CONSTITUTION



LEGISLATIVE

Parliament



Rajya Sabha Lok Sabha



EXECUTIVE



President



JUDICIAL



Supreme Court

Articles 52 to 78 in Part V of the Constitution deal with the Union executive.

The Union executive consists of the President, the Vice-President, the Prime Minister, the council of ministers and the attorney general of India.

The President is the head of the Indian State. He is the first citizen of India and acts as the symbol of unity, integrity and solidarity of the nation.

ELECTION OF THE PRESIDENT

The President is elected not directly by the people but by members of electoral college consisting of:

1. the elected members of both the Houses of Parliament;
2. the elected members of the legislative assemblies of the states; and
3. the elected members of the legislative assemblies of the Union Territories of Delhi and Puducherry¹.

Thus, the nominated members of both of Houses of Parliament, the nominated members of the state legislative assemblies, the members (both elected and nominated) of the state legislative councils (in case of the bicameral legislature) and the nominated members of the Legislative Assemblies of Delhi and Puducherry do not participate in the election of the President. Where an assembly is dissolved, the members cease to be qualified to vote in presidential election, even if fresh elections to the dissolved assembly are not held before the presidential election.

The Constitution provides that there shall be uniformity in the scale of representation of different

QUALIFICATIONS, OATH AND CONDITIONS

Qualifications for Election as President

A person to be eligible for election as President should fulfil the following qualifications:

1. He should be a citizen of India.
2. He should have completed 35 years of age.
3. He should be qualified for election as a member of the Lok Sabha.
4. He should not hold any office of profit under the Union government or any state government or any local authority or any other public

POWERS AND FUNCTIONS OF THE PRESIDENT

The powers enjoyed and the functions performed by the President can be studied under the following heads.

1. Executive powers
2. Legislative powers
3. Financial powers
4. Judicial powers
5. Diplomatic powers
6. Military powers
7. Emergency powers

Executive Powers

The executive powers and functions of the President are:

- (a) All executive actions of the Government of India are formally taken in his name.
- (b) He can make rules specifying the manner in which the orders and other instruments made and executed in his name shall be authenticated.
- (c) He can make rules for more convenient transaction of business of the Union government, and for allocation of the said business among the ministers.
- (d) He appoints the prime minister and the other ministers. They hold office during his pleasure.
- (e) He appoints the attorney general of India and determines his remuneration. The attorney general holds office during the pleasure of the President.
- (f) He appoints the comptroller and auditor general of India, the chief election commissioner and other election commissioners, the chairman and members of the Union Public Service Commission, the governors of states, the chairman and members of finance commission, and so on.
- (g) He can seek any information relating to the administration of affairs of the Union, and proposals for legislation from the prime minister.
- (h) He can require the Prime Minister to submit, for consideration of the council of ministers, any matter on which a decision has been taken by a minister but, which has not been considered by the council.
- (i) He can appoint a commission to investigate into the conditions of SCs, STs and other backward classes.
- (j) He can appoint an inter-state council to promote Centre-state and inter-state cooperation.
- (k) He directly administers the union territories through administrators appointed by him.
- (l) He can declare any area as scheduled area and has powers with respect to the administration of scheduled areas and tribal areas.

Legislative Powers

The President is an integral part of the Parliament of India, and enjoys the following legislative powers.

- (a) He can summon or prorogue the Parliament and dissolve the Lok Sabha. He can also summon a

joint sitting of both the Houses of Parliament, which is presided over by the Speaker of the Lok Sabha.

- (b) He can address the Parliament at the commencement of the first session after each general election and the first session of each year.
- (c) He can send messages to the Houses of Parliament, whether with respect to a bill pending in the Parliament or otherwise.
- (d) He can appoint any member of the Lok Sabha to preside over its proceedings when the offices of both the Speaker and the Deputy Speaker fall vacant. Similarly, he can also appoint any member of the Rajya Sabha to preside over its proceedings when the offices of both the Chairman and the Deputy Chairman fall vacant.
- (e) He nominates 12 members of the Rajya Sabha from amongst persons having special knowledge or practical experience in literature, science, art and social service.
- (f) He can nominate two members to the Lok Sabha from the Anglo-Indian Community.
- (g) He decides on questions as to disqualifications of members of the Parliament, in consultation with the Election Commission.
- (h) His prior recommendation or permission is needed to introduce certain types of bills in the Parliament. For example, a bill involving expenditure from the Consolidated Fund of India, or a bill for the alteration of boundaries of states or creation of a new state.
- (i) When a bill is sent to the President after it has been passed by the Parliament, he can:
 - (i) give his assent to the bill, or
 - (ii) withhold his assent to the bill, or
 - (iii) return the bill (if it is not a money bill) for reconsideration of the Parliament.However, if the bill is passed again by the Parliament, with or without amendments, the President has to give his assent to the bill.
- (j) When a bill passed by a state legislature is reserved by the governor for consideration of the President, the President can:

- (i) give his assent to the bill, or
- (ii) withhold his assent to the bill, or
- (iii) direct the governor to return the bill (if it is not a money bill) for reconsideration of the state legislature. It should be noted here that it is not obligatory for the President to give his assent even if the bill is again passed by the state legislature and sent again to him for his consideration.
- (k) He can promulgate ordinances when the Parliament is not in session. These ordinances must be approved by the Parliament within six weeks from its reassembly. He can also withdraw an ordinance at any time.
- (l) He lays the reports of the Comptroller and Auditor General, Union Public Service Commission, Finance Commission, and others, before the Parliament.
- (m) He can make regulations for the peace, progress and good government of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu. In the case of Puducherry also, the President can legislate by making regulations but only when the assembly is suspended or dissolved.

Financial Powers

The financial powers and functions of the President are:

- (a) Money bills can be introduced in the Parliament only with his prior recommendation.
- (b) He causes to be laid before the Parliament the annual financial statement (ie, the Union Budget).
- (c) No demand for a grant can be made except on his recommendation.
- (d) He can make advances out of the contingency fund of India to meet any unforeseen expenditure.
- (e) He constitutes a finance commission after every five years to recommend the distribution of revenues between the Centre and the states.